

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT

UNITED STATES OF AMERICA ) CRIMINAL ACTION NO.  
 ) 2:21-cr-109-1  
vs. )  
 )  
JOHN GRIFFIN, )  
Defendant. )

ARRAIGNMENT  
Wednesday, December 22, 2021  
Burlington, Vermont

BEFORE:

THE HONORABLE WILLIAM K. SESSIONS III,  
District Judge

APPEARANCES:

MICHAEL P. DRESCHER, ESQ., U.S. Attorney's Office, 11 Elmwood  
Avenue, 3rd Floor, P. O. Box 570, Burlington, VT  
05402-0570, Counsel for the Government

DAVID V. KIRBY, ESQ., O'Connor & Kirby, P.C., P. O. Box K,  
Stanfordville, NY 12581, Counsel for the Defendant

ETHAN CLIFFORD, U.S. PROBATION

JOHN J. GRIFFIN, DEFENDANT

Johanna Massé, RMR, CRR  
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1 Wednesday, December 22, 2021

2 (The following was held in open court at 11:09 AM.)

3 COURTROOM DEPUTY: Your Honor, this is criminal number  
4 21-109, defendant number 1, United States of America vs. John  
5 Griffin. The Government is present through Assistant United  
6 States Attorney Michael Drescher. The defendant is present  
7 with his attorney, David Kirby. Also present in the courtroom  
8 is Probation Officer Ethan Clifford.

9 The matter before the Court is an arraignment.

10 THE COURT: Just excuse me. I just have a little  
11 technological problem, but I think this will get resolved.

12 All right. Mr. Kirby, my understanding is that your  
13 client wishes to proceed to the arraignment. Is that correct?

14 MR. KIRBY: Yes, that is, your Honor. Thank you.

15 THE COURT: Okay. Would you stand, please, Mr.  
16 Griffin. I'm going to ask you a whole series of questions. If  
17 you don't understand anything that I ask, let me know. I'd be  
18 glad to explain. If you wish to speak with Mr. Kirby during  
19 this process, let me know that. I'll provide you an  
20 opportunity to speak with him.

21 Do you understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: I'm also going to ask that you be placed  
24 under oath and would advise you if you answer any questions  
25 falsely, you could be prosecuted for perjury or false swearing.

1                   Do you understand that?

2                   THE DEFENDANT: Yes, your Honor.

3                   THE COURT: All right. Would you place Mr. Griffin  
4 under oath, please.

5                   COURTROOM DEPUTY: Please raise your right hand.

6                   (The defendant was sworn.)

7                   THE DEFENDANT: I do.

8                   THE COURT: Okay. Would you state your full name.

9                   THE DEFENDANT: John James Griffin.

10                  THE COURT: And how old are you, Mr. Griffin?

11                  THE DEFENDANT: Forty-four years old.

12                  THE COURT: How far did you go through school?

13                  THE DEFENDANT: Four years of college to a bachelor  
14 degree, sir.

15                  THE COURT: Have you ever been hospitalized for drug  
16 or alcohol treatment?

17                  THE DEFENDANT: Yes, sir.

18                  THE COURT: When was the last time?

19                  THE DEFENDANT: Early 2020, your Honor.

20                  THE COURT: Okay. Are you receiving any medication as  
21 a result of that treatment?

22                  THE DEFENDANT: No, your Honor.

23                  THE COURT: Are you under the supervision or care of  
24 any therapist or counselor?

25                  THE DEFENDANT: Not currently, your Honor, no.

1                   THE COURT: Have you taken any pills or medication or  
2 received -- or consumed alcohol within the past 24 hours?

3                   THE DEFENDANT: No, your Honor.

4                   THE COURT: Do you understand what's happening today?

5                   THE DEFENDANT: Yes, I do, your Honor.

6                   THE COURT: Have you received a copy of the  
7 indictment?

8                   THE DEFENDANT: Yes, I have.

9                   THE COURT: Have you had an adequate opportunity to go  
10 over the charges in the indictment with Mr. Kirby?

11                  THE DEFENDANT: Yes, I have, your Honor.

12                  THE COURT: And as to Count 1 of the indictment, how  
13 do you wish to plead: guilty or not guilty?

14                  THE DEFENDANT: Not guilty, your Honor.

15                  THE COURT: And as to Count 2, how do you wish to  
16 plead: guilty or not guilty?

17                  THE DEFENDANT: Not guilty, your Honor.

18                  THE COURT: And as to the forfeiture notice, you're  
19 raising an objection?

20                  THE DEFENDANT: Yes, your Honor.

21                  THE COURT: All right. Now --

22                  MR. DRESCHER: Your Honor, there -- I believe there  
23 are three counts.

24                  MR. KIRBY: There are three counts. Your Honor, he --  
25 Mr. Griffin pleads not guilty to the whole indictment, but

1 if --

2 THE COURT: Right.

3 MR. KIRBY: I think there are three counts there.

4 THE COURT: Ah. Yes. Right.

5 As to Count 3, how do you wish to plead: guilty or not  
6 guilty?

7 THE DEFENDANT: Not guilty, your Honor.

8 THE COURT: All right. Now, first of all, we need to  
9 set the motions deadline. I'm sure that you've gone over with  
10 Mr. Griffin the fact that he has the right to a speedy trial.  
11 The question is whether in a case of this complexity you need  
12 additional time for the preparation of your defense.

13 Mr. Kirby, what do you wish to say in regard to the time  
14 period for the filing of motions?

15 MR. KIRBY: I would like 90 days, at least initially.  
16 Mr. Drescher has let me know that there are a substantial  
17 amount of documents and pieces of evidence that I need to  
18 review. I obviously need to review them with my client, who I  
19 think will be continuing to be housed at Cheshire, but that's a  
20 little bit a ways from, you know, where I'm located, so it's --  
21 I think it's just going to take some time, your Honor.

22 THE COURT: Okay. Is there any objection to extending  
23 the motions filing deadline to 90 days from the Government?

24 MR. DRESCHER: No objection, your Honor. Subject, of  
25 course, to Mr. Griffin agreeing to the exclusion of that time

1 under the Speedy Trial Act.

2 THE COURT: All right. Mr. Griffin, you have a right  
3 to a speedy trial; that is, to have the case brought to trial  
4 within 70 days. But in many cases, it's in the best interest  
5 of a person who's charged with a crime or, for that matter, for  
6 the Government as well to extend that period of time so that  
7 you have an adequate opportunity to review all of the documents  
8 and prepare a defense. But to do that, you have to waive the  
9 running of the speedy trial clock. Essentially the Court would  
10 toll the running of the speedy trial from today's date until  
11 the date of the deadline for the filing of motions. If motions  
12 are filed, the deadline would be extended.

13 The question is whether you would be willing to waive your  
14 right to a speedy trial at this point and agree that the speedy  
15 trial clock will be tolled; that is, not run, from this date  
16 until the -- till the hearing.

17 THE DEFENDANT: I do waive that right, your Honor.

18 THE COURT: Okay. All right. The Court will find in  
19 the interest of justice that the speedy trial clock should be  
20 tolled because of the complexity of the case and the defense's  
21 need to review discovery, and so it is tolled.

22 All right. Now, in regard to detention or release, what's  
23 the Government's position?

24 MR. DRESCHER: Your Honor, as we explained in our  
25 detention motion, we think Mr. Griffin should be detained

1 pretrial. I understand from Mr. Kirby that he at this time  
2 does not intend to contest that motion.

3 THE COURT: All right. Mr. Kirby, is that correct?

4 MR. KIRBY: Yes, your Honor. We need to take a look  
5 at some of the allegations in the detention motion and put  
6 together a package, so we would -- we need some time to do all  
7 of that.

8 THE COURT: So the Court finds that there are no  
9 conditions or combination of conditions which could assure at  
10 this point that the defendant would not pose a risk to the  
11 community and also would appear when required. That's subject  
12 to review. If the defense wishes to file a request for a  
13 review of the detention order, the Court would be willing to  
14 address that at that point. All right?

15 MR. KIRBY: Thank you.

16 THE COURT: Now, the motions deadline is extended for  
17 90 days, so that would -- that date would be what?

18 COURTROOM DEPUTY: March 22nd.

19 THE COURT: I'm sorry?

20 COURTROOM DEPUTY: March 22nd.

21 THE COURT: March 27th. So the motions deadline is  
22 extended to March 27th, 2022.

23 Is there anything else that we need to address at this  
24 point?

25 MR. DRESCHER: I don't believe so.

1                   MR. KIRBY: Yes. If you don't mind, your Honor, I  
2 have a few papers that I need to go over with Mr. Griffin. I  
3 can't do it up in the lockup because he needs to sign some of  
4 them. If we could sit here for five or ten minutes, that would  
5 be very helpful to the defense.

6                   THE COURT: The difficulty, of course, is that this  
7 space is open to the public.

8                   MR. KIRBY: Well, I don't think we'd be chatting too  
9 much. I just want him to be able to read the documents and  
10 decide whether --

11                  THE COURT: Okay. Is there any difficulty in just  
12 having him stay here for just a few minutes so he can sign some  
13 documents?

14                  DEPUTY MARSHAL: No, sir.

15                  THE COURT: All right. Okay. That's fine. We'll  
16 just ask that the marshals return him once he has completed  
17 signing the documents.

18                  Is there anything else?

19                  MR. KIRBY: Thank you, your Honor.

20                  MR. DRESCHER: I don't believe so.

21                  THE COURT: Okay. Thank you.

22                  COURTROOM DEPUTY: Judge, Rule 5(f).

23                  THE COURT: Hmm?

24                  COURTROOM DEPUTY: Rule 5(f).

25                  THE COURT: Oh. Yes. We have a rule that's required

1 that I read to the Government. Rule 5(f) Oral Order: The  
2 Court directs the prosecution to comply with its obligation  
3 under *Brady vs. Maryland* and its progeny to disclose to the  
4 defense all information, whether admissible or not, that is  
5 favorable to the defendant, material either to guilt or to  
6 punishment and known to the prosecution. Possible consequences  
7 for noncompliance may include dismissal of individual charges  
8 or the entire case, exclusion of evidence, and professional  
9 discipline or court sanctions on the attorneys responsible.  
10 The Court will be entering a written order more fully  
11 describing the obligation and the possible consequences of  
12 failing to meet it, and the Court directs the Government to  
13 review and comply with that order.

14         Does the Government confirm that it understands its  
15 obligations and will fulfill them?

16            MR. DRESCHER: It does, your Honor. And I apologize  
17 for not reminding the Court of the need to review that rule  
18 with the Government.

19            THE COURT: Well, that's -- appreciate that. It's  
20 just -- obviously the magistrate judge ordinarily does the  
21 arraignments, so I am not particularly familiar with the Rule 5  
22 order, but now I am.

23            Okay. Is there anything else?

24            MR. KIRBY: No, your Honor. Thank you.

25            (Interruption by the reporter.)

1                   THE COURT: March 27th or 22nd?

2                   COURTROOM DEPUTY: 22nd. Two two.

3                   THE COURT: Two two. March 22nd is the -- is the  
4 deadline for the filing of motions. Okay? Thank you.

5                   MR. DRESCHER: Thank you.

6                   MR. KIRBY: Thank you.

7                   (Court was in recess at 11:21 AM.)

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10                   C E R T I F I C A T I O N

11                   I certify that the foregoing is a correct transcript from  
12 the record of proceedings in the above-entitled matter.

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14

15 December 22, 2021

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17                   Johanna Massé, RMR, CRR

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